

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

RUTH MENDENHALL,)	
)	No. ED96681
Appellant,)	
)	Appeal from the Circuit Court
v.)	of St. Louis County
)	09SL-CC05239
PROPERTY AND CASUALTY)	
INSURANCE COMPANY OF)	Honorable Maura B. McShane
HARTFORD)	
)	Filed: December 13, 2011
Respondent.)	

Ruth Mendenhall appeals the trial court's grant of summary judgment in favor of Property and Casualty Insurance Company of Hartford (Hartford) on Mrs. Mendenhall's claim for equitable garnishment of Hartford's policy for an incident resulting in the death of her husband, Len Mendenhall.

CASE ORDERED TRANSFERRED TO SUPREME COURT PURSUANT TO RULE 83.02.

Division One Holds: The trial court erred in granting summary judgment in favor of Hartford. The policy's definition of "temporary worker" is ambiguous in that the term "furnish" does not explicitly indicate what kinds of third-party actions qualify as "furnishing," or thereby limit which third parties may be "furnishers." Construing the term against the insurer, we would find that because the Family Center interviewed Mr. Mendenhall and provided this information relevant to hiring to Mr. Walker, which Mr. Walker would not otherwise have had, this sufficed as furnishing by a third party, falling within the exception to the policy's exclusion from liability. However, given the general interest and importance of the question presented, we transfer to the Missouri Supreme Court pursuant to Rule 83.02.

Opinion by: Gary M. Gaertner, Jr., J.
Clifford H. Ahrens, P.J., and Roy L. Richter, J., concur.

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Attorney for Respondent: John L. Hayob